

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS

JASON JUDY,

Plaintiff,

v.

**Civil Action No. 2:12-CV-11
(Judge Bailey)**

**MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge David J. Joel [Doc. 6] dated April 2, 2012, to which neither party filed objections. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, failure to file objections to the magistrate judge's proposed findings and recommendation permits the District Court to review the recommendation under the standards that the District Court believes are appropriate, and under these circumstances, the parties' right to *de novo* review is waived.

See ***Webb v. Califano***, 468 F. Supp. 825 (E.D. Cal. 1979). The Court notes service was accepted on April 2, 2012. Accordingly, because no objections have been filed, this report and recommendation ("R & R") will be reviewed for clear error.

On March 15, 2012, Magistrate Judge Joel issued an Order to Show Cause [Doc. 5] wherein the plaintiff was cautioned that a failure to show cause within fourteen (14) days could result in dismissal of this case. The plaintiff has to date failed to answer or otherwise

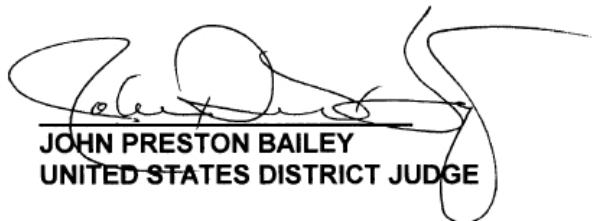
respond. For those reasons, the Report and Recommendation recommends this matter now be dismissed.

Upon review of the above, it is the opinion of this Court that the Report and Recommendation **[Doc. 6]** should be, and is, hereby **ORDERED ADOPTED**. For the reasons more fully stated in the Report and Recommendation, this Court **ORDERS** that this matter be **DISMISSED WITHOUT PREJUDICE** and be **STRICKEN FROM THE DOCKET OF THIS COURT** for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record.

DATED: April 20, 2012.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE